**HONOURABLE SMT. JUSTICE T.MEENA KUMARI**
**&**
**HONOURABLE SRI JUSTICE G. CHANDRAIAH**

**WRIT PETITION No:15539 OF 2007**

**Dated: 24.07.2007**

-

Between:

1. P. Akkaiah and others.

..Petitioner

And

1. The Engineer-in-Chief,
   R & B Department, A.P.,
   Erramanzil, Hyderabad and others.

..Respondents.

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

**HONOURABLE SMT. JUSTICE T.MEENA KUMARI**
**&**

**HONOURABLE SRI JUSTICE G. CHANDRAIAH**

**WRIT PETITION No:15539 OF 2007**

**ORDER:** (per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petition is filed by the petitioners challenging the order of the A.P. Administrative Tribunal in O.A.No.6619 of 2003, dated 26.4.2007.

The petitioners are the applicants before the tribunal. They filed the above O.A. seeking to set aside the Memo No.WCE/GM's/02-03, dated 16.9.2003 issued by the 2nd respondent cancelling the orders of appointment as Gang Mazdoor by declaring the same as illegal and arbitrary.

The tribunal having observed that the applicants have no right for regularization under G.O.Ms.No.212, dated 22.4.1994 as they worked as Charged employees, where there are no sanctioned posts, but however, the cancellation of the order passed by the Executing Engineer regularizing services of the applicants does not amount to termination of their services and the applicants continue to be in the same status they were holding as if the order of regularization dated 19.5.2003 was not passed and they are entitled for all the benefits which they were enjoying as on 19.5.2003, disposed of the O.A. Having aggrieved by the order of the tribunal, the applicants filed the present writ petition.

Heard the learned Counsel appearing for the petitioners and the learned Government Pleader for Roads & Buildings.

It is the case of the applicants that they have completed five years of service as NMR workers and were appointed as Gang Mazdoors by proceedings dated 19.5.2003 by the 3rd respondent. The gang Mazdoor post is a work charged post and the cadre management in respect of work charged establishment is governed by the provisions contained in G.O.Ms.No.107, dated 7.2.1974 and as per the provisions of G.O.Ms.No.107, in respect of unit of appointment in the

Division insofar as work charge establishment is concerned, the 3rd respondent is the competent authority and therefore, the 3rd respondent regularized the services of the applicants. Therefore, the cancellation order of the 2nd respondent on the ground that the approval of the Government is necessary, is illegal and arbitrary.

We have perused the order impugned and the G.O.No.107.

On a perusal of the above G.O., clause No.V goes to show that the Executive Engineers are the appointing authority for work charged establishment up to skilled Class IV and the Division is the Unit in respect of the posts up to skilled Class IV and the Superintending Engineers are the appointing authority up to Highly skilled Class I and the circle is the Unit for the said categories. The Chief Engineer concerned shall be the appointing authority for supervisory categories.

In the present case on hand, their services were regularized by the 3rd respondent vide proceedings dated 19.5.2003. According to the proceedings, they are entitled to draw basic pay of Rs.2550/- in the time scale of 2550-4550 and usual allowances in force. While so, the 2nd respondent issued proceedings dated 16.9.2003 cancelling their regularization. The action of the 3rd respondent in regularizing the services of the applicants is in consonance with G.O.Ms.No.107. It is not in dispute that the G.O.Ms.No.107 is in subsistence.

It is also pertinent to note that while admitting the O.A., the tribunal suspended the order of the 2nd respondent. The applicants are being given regular pay scales. In that view of the matter and in view of the above G.O., we have no hesitation to hold that the order of the 2nd respondent is liable to be set aside. It is made clear that the respondents shall continue the petitioners as Gang Mazdors in pursuance of the appointment orders issued by the 3rd respondent in the time scale of pay of Rs.2550-4550. Insofar as regularization is concerned, there shall be a direction to the respondents to consider

the case of the petitioners in terms of G.O.Ms.No.212.

With the above observations, the writ petition is disposed of. No order as to costs.

_____

Justice T. Meena Kumari

_____

Justice G. Chandraiah

Date: 24th July, 2007
Nn/Gurc.

**HONOURABLE SMT. JUSTICE T.MEENA KUMARI**
**&**
**HONOURABLE SRI JUSTICE G. CHANDRAIAH**

**WRIT PETITION No:15539 OF 2007**

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

**24/07/2007**